



Federal Communications Commission
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

EX PARTE OR LATE FILED

MAY 27 1998

RECEIVED

JUN - 1 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mark Nagel, City Manager
City Hall
2015 First Ave. No.
Anoka, MN 55303-2270

Dear Mr. Nagel:

Thank you for your letter dated November 3, 1997, which was forwarded to us from the office of Senator Paul Wellstone, concerning the placement and construction of facilities for the provision of personal wireless services and radio and television broadcast services in your community. Your letter refers to three proceedings that are pending before the Commission. In MM Docket No. 97-182, the Commission has sought comments on a Petition for Further Notice of Proposed Rule Making filed by the National Association of Broadcasters and the Association for Maximum Service Television. In this proceeding, the petitioners ask the Commission to adopt a rule limiting the exercise of State and local zoning authority with respect to broadcast transmission facilities in order to facilitate the rapid build-out of digital television facilities, as required by the Commission's rules to fulfill Congress' mandate. In WT Docket No. 97-192, the Commission has sought comment on proposed procedures for reviewing requests for relief from State and local regulations that are alleged to impermissibly regulate the siting of personal wireless service facilities based on the environmental effects of radio frequency emissions, and related matters. Finally, in DA 96-2140 and FCC 97-264, the Commission twice sought comments on a Petition for Declaratory Ruling filed by the Cellular Telecommunications Industry Association seeking relief from certain State and local moratoria that have been imposed on the siting of commercial mobile radio service facilities.

Because all of these proceedings are still pending, we cannot comment on the merits of the issues at this time. However, I can assure you that the Commission is committed to providing a full opportunity for all interested parties to participate. The Commission has formally sought public comment in all three proceedings and, as a result, has received numerous comments from State and local governments, service providers, and the public at large. Your letter, as well as this response, will be placed in the record of all three proceedings and will be given full consideration.

1
4
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. Mark Nagel

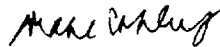
2.

At the same time, the Commission is actively pursuing initiatives that we hope will render any Commission action limiting State and local authority unnecessary. Commission staff, working with the Commission's Local and State Government Advisory Committee, is bringing together representatives of industry and municipal governments to discuss mutually acceptable solutions to the challenges posed by facilities siting. Chairman Kennard has stated that preemption of local zoning authority should be a remedy of last resort, and that the Commission should not consider preemption until the possibilities for constructive dialogue have been exhausted.

Further information regarding the Commission's policies toward personal wireless service facilities siting, including many of the comments in the two proceedings involving personal wireless service facilities, is available on the Commission's internet site at <http://www.fcc.gov/wtb/siting>.

Thank you for your inquiry.

Sincerely,



for Steven Weingarten
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Copy to: The Honorable Paul Wellstone

cc: CWD

Dockets (2)

j:\congress\9801126

PAUL D. WELLSTONE
MINNESOTA

MINNESOTA TOLL FREE NUMBER:
1-800-642-6041

United States Senate
WASHINGTON, DC 20510-2303

COMMITTEES:
LABOR AND HUMAN RESOURCES
SMALL BUSINESS
INDIAN AFFAIRS
VETERANS' AFFAIRS
FOREIGN RELATIONS

January 26, 1998

WTB
9/1/82
1126


Dan Phythyon
Director, Office of Legislative and
Intergovernmental Affairs
~~Federal Communications Commission~~
Rm 808
1919 M Street, N.W.
Washington, D.C. 20554

Dear Director Phythyon:

The attached communication is for your consideration and whatever action, if any, you might deem appropriate. I would appreciate it if you would respond to Mr. Nagel directly regarding this matter. I would also appreciate it if you could send a copy of your response to me.

Thank you very much for your time.

Sincerely,


Paul David Wellstone
United States Senator

PDW:mw

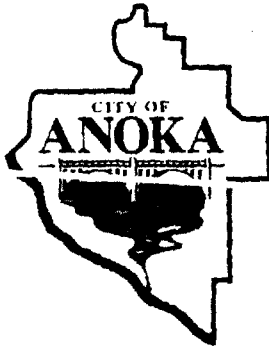
Enclosure

☐ HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2303
(202) 224-6641

☐ 2550 UNIVERSITY AVENUE, WEST
COURT INTERNATIONAL BUILDING
ST. PAUL, MN 55114-1025
(612) 645-0323

☐ POST OFFICE BOX 281
105 2D AVENUE, SOUTH
VIRGINIA, MN 55792
(218) 741-1074

☐ 417 LITCHFIELD AVENUE, SW
WILLMAR, MN 56201
(320) 231-0001



7514884

CITY HALL • 2015 FIRST AVE. NO. • ANOKA, MINNESOTA 55303-2270
PHONE (612) 421-6630 • FAX (612) 421-9194 • TTY (612) 422-0442

November 3, 1997

Senator Paul Wellstone
United States Senate
717 Hart Building
Washington, D.C. 20510

Dear Senator Wellstone:

On behalf of the Anoka City Council and the citizens of Anoka, I am writing to you about the Federal Communications Commission and its attempts to preempt local zoning of cellular, radio, and television towers by making the FCC the "Federal Zoning Commission" for all cellular telephone and broadcast towers. For over 100 years, Congress and the courts have recognized zoning is a local function, but, recently, the FCC has apparently decided to limit local government zoning authority.

As you know, the recent Telecommunications Act, approved by Congress, reaffirmed local zoning authority over cellular towers. As we understand it, the Act asked the FCC to stop all rule makings where the FCC was attempting to become a Federal Zoning Commission for such towers. Despite this instruction from Congress, the FCC seems to be attempting to preempt local zoning authority in three different rule makings--1) radiation from cellular towers, 2) the banning of moratoriums on cellular towers while cities revise their zoning ordinances to accommodate the growing numbers of these towers, and 3) setting an artificial limit of 21 to 45 days for municipalities to act on any local permit, which means that any permit request is automatically deemed granted if the city doesn't act in this time frame even if the application is incomplete or clearly violates local law. It is our belief these actions represent a power grab by the FCC to become the federal zoning commission for cellular towers and broadcast towers. We feel that this violates the intent of Congress with respect to the Act.

We would appreciate your help in stopping the FCC from preempting local zoning of cellular, radio, and television towers in three ways: first, by writing the FCC commissioners telling them to stop this intrusion on local zoning authority in cases WT 97-197, MM Docket 97-182, and DA 96-2140; second, join in the "dear colleague letter" currently being prepared to go to the FCC from many members of Congress; and, third, oppose any effort by Congress to grant the FCC power to act as a "Federal Zoning Commission" and preempt local zoning authority.



November 3, 1997
Page 2

It is our belief that this will become a national issue when the first 200-foot tower is located in someone's back yard, because the FCC has preempted local zoning authority and that moment seems to be drawing nearer in our community. Your help in preventing this from occurring would be very much appreciated. Please feel free to call me if you have questions.

On behalf of the Anoka City Council,

Mark Nagel
City Manager